

Robert F. Carter February 26, 2009, testimony before the Joint Committee on Labor and Public Employees

Senator Prague and Representative Ryan:

I am Robert Carter, speaking in favor of Committee Bill NO. 5249 on behalf of the Connecticut Trial Lawyers Association. I live in Southbury. I've been practicing workers' compensation law for more than thirty years in Connecticut. I have been active in workers' compensation matters for the Connecticut Trial Lawyers Association and Connecticut Bar Association for a long time. I have many times testified here and written many amicus curiae briefs for both organizations. I represent injured employees.

A huge problem for injured employees is the failure of insurance company adjusters to authorize recommended medical care by the treating physician. During the last fifteen years the problem has gotten out of hand. Many adjusters now routinely simply ignore requests for medical treatment, including surgery, and when a hearing is held, at that time schedule an examination with an insurance company doctor. These insurance company examinations may not occur until several months later. Commissioners feel they have no power to stop this unconscionable delay in treatment. I just received a decision by a commissioner authorizing psychiatric treatment for a severely injured and severely depressed employee which had been recommended by the authorized treating physician more than eight months previously; at the same time the adjuster failed to pay for prescriptions for the accepted injury, which had required numerous surgeries. The adjuster had simply ignored the psychiatric referral and never sought review by another physician; so there was never any evidence at all that the treatment was not appropriate. Yet a trial or formal hearing on the issue was forced by the adjuster's recalcitrance and failure to pay for prescribed medications. Even with these facts, the commissioner did not find that the treatment was unreasonably delayed.

Committee Bill 5249 would help solve this problem simply by requiring prompt response by the insurance company to treatment recommendations by the treating physician. The bill would also allow the injured employee to record his examination by an insurance company doctor. Often these examinations are conducted in maybe five minutes, with no history taken, and the report based on this cursory examination may be used to cut off the employee's benefits, deny recommended surgery, or otherwise ruin the employee's life. A recording of the shoddy exam would speak for itself.

The bill would provide enforceable sanctions for unreasonable delay in medical treatment recommended by the authorized treating physician. The claimant would be paid his full wage rate for the period of unreasonable delay, rather than the reduced workers' compensation rate, and attorneys' fees could be awarded in appropriate cases. If the insurer wanted to have an examination by its own doctor, the examination would have to be scheduled within thirty days of the recommended treatment.